

**MINUTES**  
**GOVERNMENT OVERSIGHT COMMITTEE**  
**April 29, 2010**

The Joint Government Oversight Committee met April 29, 2010, in room 103, the Supreme Court Chamber at the Capitol.

Senator Olive, Chair, called the meeting to order at 10:05 a.m. Other members present were:

Senator Rich Olive, Chair	Representative Vicky Lensing, Chair
Senator Tom Courtney, Vice Chair	Representative Kurt Swaim, Vice Chair
Senator Pat Ward, Ranking Member	Representative Ralph Watts, Ranking Member
Senator Steve Sodders	Representative Clel Baudler
	Representative Deborah Berry
	Representative Donovan Olson
	Representative Eric Palmer
	Representative Dawn Pettengill
	Representative Kent Sorenson

The following members were excused: Senator Ron Wieck.

The minutes of March 24, 2010, were approved.

**OVERVIEW**

The Committee continued its inquiry relating to issues which have arisen in connection with the financing and management of the Iowa Association of School Boards (IASB), with testimony received from several individuals either presently or formerly associated with the organization.

**MAXINE KILCREASE, FORMER EXECUTIVE DIRECTOR, IASB**

Ms. Kilcrease appeared in response to a subpoena issued by the Committee, accompanied by her attorney, Mr. Sean Spellman. Preliminarily, Mr. Spellman requested the Committee to consider a Motion To Quash Subpoena and Request For Immediate Ruling, similar to one denied in a Polk County District Court hearing earlier in the week. Co-chairperson Olive responded that the focus of the Committee is to gain insight into what occurred at IASB with the objective of determining if legislative changes relating to nonprofit organizations receiving taxpayer money are warranted, and that the subpoena was issued because the Committee feels that Ms. Kilcrease can assist in this endeavor. He requested unanimous consent for Ms. Julie Potthorf, Deputy Attorney General, to render an opinion regarding the appropriateness of the subpoena's issuance. Ms. Potthorf stated that after a review of the grounds raised in support of the Motion To Quash, and of relevant sections related to subpoena issuance contained in Iowa Code Chapter 2, it was her conclusion that the subpoena was properly issued. The Committee unanimously voted to continue its inquiry based upon Ms. Potthorf's opinion.

In an opening statement, Mr. Spellman characterized certain comments previously made in connection with the investigation as divisive and counterproductive, and referred to Ms. Kilcrease as a valued individual implementing changes to improve an organization with financial problems which predated her arrival. He additionally contended that the circumstances surrounding her

employment contract are confidential and privileged and that the contract was improperly and unilaterally terminated, and stated that access to Ms. Kilcrease's records as Executive Director has been blocked by IASB.

Committee inquiry centered around questions relating to Ms. Kilcrease's background and previous experience with nonprofit organizations, her job description and duties as Executive Director while at IASB, the financial condition of the organization during her tenure there, the circumstances surrounding a \$157,000 salary increase, the extent to which contact between auditors and IASB board members was curtailed, whether retaliatory action was taken against whistleblowers, the merits of expanding the open records law in the area of nonprofit organizations, and the proper management of such organizations and the formation of for-profit subsidiaries. After consultation with Mr. Spellman, Ms. Kilcrease generally declined to respond to Committee questioning or supply information in connection therewith, variously citing her Fifth Amendment constitutional right against self-incrimination, that the information sought was privileged and confidential, that it was the subject of a possible civil action, that the question constituted an inaccurate characterization or misrepresentation, or that she lacked access to records necessary to provide an accurate and comprehensive response.

#### **LEGRANDE SMITH, GENERAL COUNSEL, IASB**

Mr. Smith, presently on medical leave from IASB, described his employment responsibilities and identified the nature and timing of issues and concerns which arose relating to the organization's financial condition and management. These included the termination of an underfunded pension plan; the existence of a \$5 million receivable owed to IASB by Local Government Services (LGS), a for-profit subsidiary; and the appearance of misrepresentations by Mr. Kevin Schick, former Chief Financial Officer, IASB, regarding alleged interest by eBay in purchasing one of the organization's revenue-generating programs. Mr. Smith indicated that while he drafted Ms. Kilcrease's original employment contract, he was not involved in any subsequent amendment to the contract, and that he was aware that Ms. Kilcrease had undertaken a review of compensation levels at comparable organizations in other states. Committee inquiry included IASB policies regarding compensation increase timing and approval, travel policy, board member involvement in IASB operations and their reaction to the financial difficulties, and the circumstances surrounding a trip to Bora Bora by Mr. Schick initially financed pursuant to an IASB-issued credit card.

#### **MARY GANNON, ATTORNEY, IASB**

Ms. Gannon explained the nature of her work at IASB, indicating that lobbying efforts during the legislative session and field work with school districts during the interim combine to distance her from office contact and management activities at the organization. She speculated that some of the issues which arose at IASB in the recent past might be attributable to an adjustment period during the transition from one director to another, noted that IASB staff were made aware of an approximately \$400,000 reduction needed in the face of financial difficulties, and stated that a \$29,000 salary increase was not negotiated and was presented as a market adjustment. Committee discussion included the extent to which lobbying efforts have resulted or could potentially result in an unfair advantage or benefit to IASB and its related organizations, the expansion of Ms. Gannon's job responsibilities following the termination of Margaret Buckton, and whether there has been a change or shift in mindset on the part of either IASB management or the Board of Directors. Ms. Gannon characterized the board as more "hands on" and in receipt of a larger amount of information regarding the activities and management of the organization in the wake of the IASB investigation.

### **MARGARET BUCKTON, VICE-PRESIDENT, IOWA SCHOOL FINANCE INFORMATION SERVICES (ISFIS)**

Ms. Buckton summarized her background leading up to employment at IASB, and her positions of employment there. She stated that she'd observed reduced board access and a less open management style when Maxine Kilcrease assumed the position of Executive Director, but noted that while she was aware of the budget shortfall and had inquired about sources of revenue to address it, most of the events being currently investigated arose following her termination by Ms. Kilcrease. She characterized her perception of the financial difficulties at IASB as more of a budget "pinch" than a crisis, explained the rationale for her position that serving as a member of the Des Moines School Board did not constitute a conflict of interest with employment at IASB or ISFIS, described seeking the position of Executive Director as an internal candidate, and discussed the circumstances surrounding her termination by Ms. Kilcrease together with two other individuals in September of 2009. Committee discussion included the nature of Ms. Buckton's current employment at ISFIS and comparisons of that organization with IASB, and IASB's role in supporting and administering Skills Iowa, a web-based learning tool for students and teachers.

### **LARRY SIGEL, PRESIDENT, ISFIS**

Mr. Sigel discussed the nature of his duties as School Finance Director for IASB, and stated that he resigned from the organization mid-year 2009 after an unsuccessful effort as an internal candidate for the Executive Director position. Mr. Sigel reiterated that IASB's financial problems amounted to an approximately \$300,000-\$400,000 shortfall, which corresponded to a roughly three to four percent reduction in budget, that this could be attributed to a depressed economy compromising revenue streams, and that while of concern it was not his perception that the shortfall constituted a calamitous financial situation. He described the terms of a \$300,000 contract negotiated prior to the effective date of his resignation between IASB and the newly-formed ISFIS, with a number of requirements including advocacy of school district participation in IASB and monitoring of whether IASB programs and products were being utilized by districts. Committee discussion included IASB's role in offering low-interest loans and grants to school districts purchasing playground tile from a vendor, Welch Products, in exchange for a fee payable by the vendor to the organization; the prevalence of similar arrangements in other IASB programs, characterization of the contractual monitoring requirement as "spying" versus "marketing"; and whether the formation of for-profit subsidiaries constituted a change in the organization's focus.

### **NOLDEN GENTRY, ATTORNEY, BRICK AND GENTRY, P.C.**

Mr. Gentry provided a clarification and explanation regarding the creation of IASB's sole for-profit corporation, LGS, for the express purpose of protecting IASB's tax-exempt status. He additionally updated the Committee regarding the establishment of an Audit Committee by IASB to meet with outside auditors on a regular basis throughout the year, board approval of salaries and salary adjustments, travel policy adjustments including no payment for spouses and more restrictive credit card charge practices, efforts to appoint a new interim Executive Director, and the resignation of Mr. Jack Hill and Mr. Bill Morain from the board. With regard to the pending audit of IASB, Mr. Gentry indicated that it was proceeding rapidly, with a hopeful conclusion in early May, and that thus far other than the salary adjustment issue no other potential instances of fraud or theft have been identified. In response to Committee inquiry, Mr. Gentry stated that it appears the handwriting analysis being conducted with reference to Mr. Hill's signature approving Ms. Kilcrease's salary increase may conclude with an inability to rule out the signature's authenticity, that progress was being made regarding negotiation and resolution of \$2 million owed by the organization to bond counsel, and that a violation with regard to the confidentiality provisions of

IASB's whistleblower policy appeared to have been made, but with no resulting detriment to the impacted employees. Mr. Gentry concluded with a recognition that the investigation continues to cast a "cloud" over the organization, and that a previously dire financial situation remains "tight".

### **ADDITIONAL INFORMATION**

Committee meetings involving IASB are being recorded, and can be linked via the opening page of the General Assembly's internet homepage. A website address for the recorded meetings is:  
<http://www.legis.state.ia.us/AudioVideo/Oversight/83GA/>

### **NEXT MEETINGS**

The Committee anticipates continuing its investigation with a meeting to be scheduled at some point during the month of May. Location and agenda to be announced.

### **ADJOURNED**

Senator Olive adjourned the meeting at 4:30 p.m.